



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 18 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: 7015 1520 0003 0791 0900

CJ Ferlito, Owner
Christopher J. Construction, LLC
32 Tupelo Drive
Oswego, NY 13126

**Re: Martville Mine – 13181 Sanford Road, Martville, New York
Compliance Evaluation Inspection – August 21, 2015
SPDES Tracking No. NYU215901**

Dear Mr. Ferlito:

This letter is in reference to the Compliance Evaluation Inspection (CEI) conducted by the United States Environmental Protection Agency (EPA), Region 2, at your facility located at or near 13181 Sanford Road in Martville, New York on August 21, 2015.

Within **thirty (30) calendar days** of receipt of this letter, please respond to the EPA in writing with the actions you have or will take to address the Area of Concern identified at your facility and described in the attached inspection report.

If you have any questions regarding this letter or the inspection report, please contact me at (212) 637-4268 or Ms. Katherine Mann of my staff at (212) 637-4226.

Sincerely,

A handwritten signature in cursive script, reading "Justine Modigliani", is positioned above the typed name.

Justine Modigliani, P.E., Chief
Compliance Section, Water Compliance Branch

Enclosure

cc: Joseph DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC



United States Environmental Protection Agency
Washington, D.C. 20460

Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20 <input type="checkbox"/>					
Remarks					
21 <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28 <input type="checkbox"/> 29 <input type="checkbox"/> 30 <input type="checkbox"/> 31 <input type="checkbox"/> 32 <input type="checkbox"/> 33 <input type="checkbox"/> 34 <input type="checkbox"/> 35 <input type="checkbox"/> 36 <input type="checkbox"/> 37 <input type="checkbox"/> 38 <input type="checkbox"/> 39 <input type="checkbox"/> 40 <input type="checkbox"/> 41 <input type="checkbox"/> 42 <input type="checkbox"/> 43 <input type="checkbox"/> 44 <input type="checkbox"/> 45 <input type="checkbox"/> 46 <input type="checkbox"/> 47 <input type="checkbox"/> 48 <input type="checkbox"/> 49 <input type="checkbox"/> 50 <input type="checkbox"/> 51 <input type="checkbox"/> 52 <input type="checkbox"/> 53 <input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56 <input type="checkbox"/> 57 <input type="checkbox"/> 58 <input type="checkbox"/> 59 <input type="checkbox"/> 60 <input type="checkbox"/> 61 <input type="checkbox"/> 62 <input type="checkbox"/> 63 <input type="checkbox"/> 64 <input type="checkbox"/> 65 <input type="checkbox"/> 66 <input type="checkbox"/> 67 <input type="checkbox"/> 68 <input type="checkbox"/> 69 <input type="checkbox"/> 70 <input type="checkbox"/> 71 <input type="checkbox"/> 72 <input type="checkbox"/> 73 <input type="checkbox"/> 74 <input type="checkbox"/> 75 <input type="checkbox"/> 76 <input type="checkbox"/> 77 <input type="checkbox"/> 78 <input type="checkbox"/> 79 <input type="checkbox"/> 80 <input type="checkbox"/>					
Inspection Work Days	Facility Self-Monitoring Evaluation Rating	BI	QA	Reserved	
67 <input type="checkbox"/> 68 <input type="checkbox"/> 69 <input type="checkbox"/>	70 <input type="checkbox"/>	71 <input type="checkbox"/>	72 <input type="checkbox"/>	73 <input type="checkbox"/> 74 <input type="checkbox"/> 75 <input type="checkbox"/> 76 <input type="checkbox"/> 77 <input type="checkbox"/> 78 <input type="checkbox"/> 79 <input type="checkbox"/> 80 <input type="checkbox"/>	

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time/Date	Permit Effective Date
Martville Mine 13181 Sanford Road Martville, NY 13111	10:30 AM/8-21-15	n/a
	Exit Time/Date	Permit Expiration Date
	11:45 AM/8-21-15	n/a
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data (e.g., SIC NAICS, and other descriptive information)	
CJ Ferlito, Owner 315-297-8747	SIC Code: 1442	
Name, Address of Responsible Official/Title/Phone and Fax Number	Contacted	
CJ Ferlito 32 Tupelo Drive Oswego, NY 13126	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input type="checkbox"/> Permit	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input type="checkbox"/> Records/Reports	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pollution Prevention	
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input checked="" type="checkbox"/> Storm Water	
<input type="checkbox"/> Effluent/Receiving Waters	<input type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	See attached inspection report.
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
	USEPA Region 2/DECA-WCB/212-637-4226	9/17/2015
Katherine Mann, Physical Scientist		
Signature of Management Q A Reviewer	Agency/Office/Phone and Fax Numbers	Date
Justin Modigliani, P.E., Chief, Compliance Section	USEPA Region 2/DECA-WCB/212-637-4268	9/17/15

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2, DECA-WCB**

20th Floor, 290 Broadway, NY, NY 10007

COMPLIANCE EVALUATION INSPECTION REPORT

Compliance Evaluation Inspection: Martville Mine	
Inspection Date: August 21, 2015	Inspection Time: 10:30 AM
EPA Inspector: Katherine Mann, Physical Scientist, USEPA Region 2, DECA, Water Compliance Branch (212) 637-4226	
NYSDEC Region 7 Representatives: David Bimber, Regional Permit Administrator, Division of Environmental Permits; and John Clancy, Environmental Analyst, Division of Environmental Permits	
On-Site Representative: CJ Ferlito, Owner	
Site Information: 13181 Sanford Road, Martville, NY 13111 SPDES Tracking No. NYU215901	
Owner/Operator: Christopher J. Construction, LLC	
SIC Code: 1442 - Construction Sand and Gravel	

INTRODUCTION:

On August 21, 2015, the United States Environmental Protection Agency ("EPA") conducted a Compliance Evaluation Inspection ("CEI") at the Martville Mine located at or near 13181 Sanford Road in Martville, New York (the "Site" or "Facility"). Mr. CJ Ferlito, Owner, was the on-site representative present at the time of the CEI. Also present at the time of the CEI were Mr. David Bimber and Mr. John Clancy of the New York State Department of Environmental Conservation ("NYSDEC"), Region 7, Division of Environmental Permits. The EPA inspector, accompanied by Mr. Ferlito, Mr. Bimber and Mr. Clancy, performed a walk-through of the Site to evaluate the nature of activities conducted at the Site, as well as the presence of potential stormwater discharges from the Site. Weather conditions at the time of the CEI were sunny and approximately 78°F.

REGULATORY BACKGROUND:

Section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311 (a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), the New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York. Under this authority, a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from a point source to a navigable water of the United States. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

In New York, facilities discharging stormwater associated with industrial activity to surface waters may seek coverage under the NYSDEC SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity ("MSGP"), as defined by the present general permit number, GP-0-

12-001. GP-0-12-001 became effective on October 1, 2012 and expires on September 30, 2017. Sector J of the MSGP applies to stormwater discharges associated with industrial activity, including soil disturbances, from active and inactive mineral mining and dressing facilities, as identified by the Standard Industrial Classification ("SIC") Group 14. Facilities seeking coverage under the MSGP must submit a Notice of Intent ("NOI") to the NYSDEC in accordance with the requirements listed in the MSGP.

SITE DESCRIPTION:

The proposed use for the Site is a sand and gravel mine operating under SIC code 1442. The proposed mine is approximately 35.5 acres located on an 82-acre piece of property. Sterling Creek runs northerly along the southeastern boundary of the property. There is also a federal wetland located south of the proposed mine. Steep slopes are located on the southern and southeastern borders of the Site, with an approximate 142-foot change in elevation from the edge of the proposed Life of Mine ("LOM") (~420' above sea level) to Sterling Creek (~358' above sea level).

FINDINGS AND OBSERVATIONS:

At the time of the CEI, Mr. Ferlito stated that a portion of the Site was lumbered in late fall, early winter of 2014. As identified in photographs IMG_618 and IMG_619, the logged area, located in the southeast quadrant of the Site, included stumps, woody debris, and vegetative cover. Soil disturbances over one (1) acre or other industrial activities were not identified at the time of the CEI.

The EPA inspector inspected the south and southeastern areas of the Site for areas where stormwater may discharge from the Site to the wetland or to Sterling Creek. The area that has been logged is relatively flat, and stormwater coming in contact with the logged area of the Site appeared to predominantly infiltrate. No evidence of sediment or sediment-laden stormwater flowing down the slopes of the Site was identified at the time of the CEI. Any stormwater flowing down the slopes on the south and southeastern sides of the Site appeared to be conveyed via sheet flow, as no clear, discrete conveyances from the logged area to, or down, the slopes of the Site were identified. There was one (1) location near the southeastern corner of the Site where minor erosion was observed. This location is identified in photographs IMG_0624 and IMG_0625 and is slightly obscured by leaf litter. It was discussed during the CEI that this area may facilitate channelized flow from areas of proposed industrial activity to Sterling Creek.

At the time of the CEI, a mining permit had not yet been issued for the Site. The mining permit was approved subsequent to the CEI on September 8, 2015 (Permit ID 7-0556-00276). Activities authorized by the mining permit must be in strict conformance with plans approved by the NYSDEC on August 3, 2015, including, but not limited to the Mined Land Use Plan (dated April 2015) and the map titled, "Stormwater Control Plan Interim Condition" (dated July 28, 2015). These documents describe silt fencing and a 7-foot berm (with a minimum 14-foot base width) that must be installed 25 feet inside the perimeter of the LOM. Based on discussion with Mr. Ferlito, it is clear that he intends to contain all stormwater within the berm; however, there are no engineering calculations or other documentation demonstrating that the berm is adequately sized to prevent stormwater discharges from the mine during heavy rain events. In addition, the initial construction of the berm may result in a stormwater discharge associated with industrial and/or construction activity.

AREA OF CONCERN:

Currently, Mr. Ferlito has not submitted a NOI to obtain SPDES permit coverage for stormwater discharges associated with anticipated mining and/or construction activities. Please note that unless notified by the NYSDEC to the contrary, coverage under the MSGP becomes effective 30 days after the date a complete NOI is received by the NYSDEC.

Prior to commencing industrial activity (including construction activity resulting in one or more acres of soil disturbance) that would result in a point source stormwater discharge from the Site, coverage under the MSGP or other SPDES permit must be obtained.

PHOTOGRAPHS:



Photographs IMG_0618 and IMG_0619: Vegetative cover over the logged area in the southeast area of the Martville Mine site. Photographs were taken facing east and southeast, respectively.



Photographs IMG_0620 and IMG_0621: IMG_0620 identifies the southern limits of the logged area and approximate LOM boundary near the southeast corner of the Site, approximately 360 feet away from Sterling Creek. IMG_0621 identifies steep slopes on the south side of the Site, just beyond the tree line identified in IMG_0620.



Photographs IMG_0622 and IMG_0623: Steep slopes on the south side of the Site. No discernable flow path was observed on the slopes at the time of the CEI.



Photographs IMG_0624 and IMG_0625: Potential stormwater outfall location near the southeast corner of the Site, where there is a more direct line of sight to Sterling Creek. Minor erosion was identified at this location.